



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 152

TUESDAY, FEBRUARY 24, 2015

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE March 12, 2015
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY X. Adler

1 AN ACT relating to telecommunications.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Notwithstanding any other provision of law, a telephone utility operating under a
6 price regulation plan pursuant to KRS 278.543 may, at any time after the
7 expiration of the applicable rate cap period set forth in that section, elect to
8 operate under the modifications to that plan contained in this section. The
9 election of this modification by the utility shall become effective upon the filing of
10 a notice with the commission. The notice shall identify all exchanges served by
11 the modifying utility which, as of January 1, 2015, contained fifteen thousand
12 (15,000) or more housing units based on United States Census data current as of
13 January 1, 2015.

14 (2) As used in this section:

15 (a) "Basic local exchange service" has the same meaning as in KRS 278.541;

16 (b) "Exchange" means a geographical area established by a telephone utility
17 for the administration of telephone service. An exchange may embrace a
18 city, town, or village and its environs or a portion thereof, and may consist
19 of one (1) or more central offices together with the associated plant used in
20 furnishing communication services in that area;

21 (c) "IP-enabled service," as used in the context of subsection (4)(c) of this
22 section, means any service, capability, functionality, or application provided
23 using Internet protocol, or any successor protocol that enables an end user
24 to send or receive voice communication, either separately or in conjunction
25 with data communication, video communication, or both, in Internet
26 protocol format, or any successor format; and

27 (d) "Modifying utility" means a utility that makes an election to adopt the

modified price regulation plan set out in this section;

(e) "Voice service" means a retail service provided through any technology or service arrangement that includes the applicable functionalities described in 47 C.F.R. sec. 54.101(a).

(3) In exchanges with fifteen thousand (15,000) or more housing units as of January 1, 2015, based on United States Census data current as of January 1, 2015:

(a) The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of any retail service of the modifying utility; and

(b) The tariffs of a modifying utility which are in effect on the effective date of this Act shall remain binding until such tariffs are withdrawn by the utility.

(4) (a) The provisions of this subsection shall apply to all areas that are not described in subsection (3) of this section and in which the modifying utility is operating as an incumbent local exchange carrier, as defined in 47 U.S.C. sec. 251(h), as of the effective date of this Act.

(b) In response to a request for service at a location to which the modifying utility or any predecessor in interest has not installed landline facilities necessary to provide basic local exchange service, the modifying utility shall offer voice service either directly or through an affiliate. The modifying utility is not obligated to offer basic local exchange service at the location. The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of the voice service.

(c) 1. In response to all other requests for service, the modifying utility may offer the requesting customer an IP-enabled service or a wireless service either directly or through an affiliate.

2. If the requesting customer does not order an IP-enabled service or a wireless service, the modifying utility, upon request by the customer,

1 shall provide basic local exchange service at that location. The
 2 commission retains the jurisdiction to enforce this obligation.

3 3. If the requesting customer orders an IP-enabled service or a wireless
 4 service, the modifying utility shall notify the customer in writing that:

5 a. It is providing service using an IP-enabled service or a wireless
 6 service provided by the modifying utility or an affiliate; and

7 b. The customer has sixty (60) days from service initiation to notify
 8 the modifying utility in writing that the customer no longer
 9 wants the service.

10 4. If the customer gives written notice within sixty (60) days that the
 11 service is no longer wanted, the modifying utility, upon request by the
 12 customer, shall provide basic local exchange service at that location.
 13 The commission retains the jurisdiction to enforce this obligation.

14 5. If the customer does not give written notice that the service is no
 15 longer wanted within sixty (60) days, the modifying utility shall offer
 16 voice service, either directly or through an affiliate, at the requested
 17 location. The modifying utility shall not be obligated to offer basic
 18 local exchange service at that location. The commission shall not
 19 impose any requirements or otherwise regulate the terms, conditions,
 20 rates, or availability of the voice service.

21 (5) Nothing in this section:

22 (a) Shall affect the obligations of a modifying utility under federal law
 23 including, without limitation, any obligation to maintain existing voice
 24 service in compliance with rules and orders of the Federal Communications
 25 Commission; or

26 (b) Diminishes or expands the commission's jurisdiction over wholesale rights,
 27 duties, and obligations of carriers or over complaints regarding anti-

competitive practices under federal and state law, including subsequent rules and orders of the Federal Communications Commission that address carrier-to-carrier issues in and applicable to this state. Unless otherwise directed by federal law or regulation, carrier-to-carrier complaints within the commission's jurisdiction shall be resolved by final commission order within one hundred eighty (180) days of the filing of the complaint.

➔Section 2. KRS 278.54611 is amended to read as follows:

(1) The provision of commercial mobile radio services shall be market-based and not subject to Public Service Commission regulation. Notwithstanding any other provision of law to the contrary, except as provided in subsections (2) to (5) of this section, the commission shall not impose any requirement upon a commercial mobile radio services provider with respect to the following:

- (a) The availability of facilities or equipment used to provide commercial mobile radio services; or
- (b) The rates, terms, and conditions for, or entry into, the provision of commercial mobile radio service.

(2) The provisions of this section do not limit or modify the commission's authority to arbitrate and enforce interconnection agreements.

(3) The commission ~~may~~shall ~~retain jurisdiction to~~ assist in the resolution of consumer complaints.

(4) ~~[The commission may develop standards that are generally applicable to companies that are designated and operate as eligible telecommunications carriers, pursuant to 47 U.S.C. sec. 214(e), or as carriers of last resort.]~~ The commission may exercise its authority to ensure that companies that are designated and operate as eligible telecommunications carriers under 47 U.S.C. sec. 214(e)~~[these carriers]~~, including commercial mobile radio service providers that receive eligible telecommunications carrier status, comply with the Federal Communication Commission's rules in 47

1 C.F.R. pt. 54, which govern eligible telecommunications carriers, to the extent
 2 consistent with federal and state law~~[those standards]~~.

- 3 (5) The commission shall retain jurisdiction over cellular towers pursuant to KRS
 4 278.665.

5 ➔Section 3. KRS 278.5462 is amended to read as follows:

- 6 (1) The provision of broadband services shall be market-based and not subject to state
 7 administrative regulation. Notwithstanding any other provision of law to the
 8 contrary except as provided in subsections (3) and (4) of this section, no agency of
 9 the state shall impose or implement any requirement upon a broadband service
 10 provider with respect to the following:

11 (a) The availability of facilities or equipment used to provide broadband services;

12 or

13 (b) The rates, terms or conditions for, or entry into, the provision of broadband
 14 service.

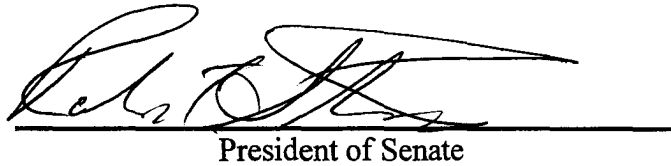
- 15 (2) Any requirement imposed upon broadband service in existence as of July 15, 2004,
 16 is hereby voided upon enactment of KRS 278.546 to 278.5462. The provisions of
 17 this section do not limit or modify the duties of a local exchange carrier or an
 18 affiliate of a local exchange carrier to provide unbundled access to network
 19 elements or the commission's authority to arbitrate and enforce interconnection
 20 agreements, including provisions related to remote terminals and central office
 21 facilities, to the extent required under 47 U.S.C. secs. 251 and 252, and any
 22 regulations issued by the Federal Communications Commission at rates determined
 23 in accordance with the standards established by the Federal Communications
 24 Commission pursuant to 47 C.F.R. secs. 51.503 to 51.513, inclusive of any
 25 successor regulations. Nothing contained in KRS 278.546 to 278.5462 shall be
 26 construed to preclude the application of access or other lawful rates and charges to
 27 broadband providers. Nothing contained in KRS 278.546 to 278.5462 shall

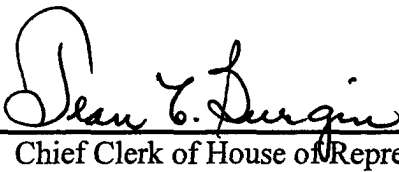
1 preclude, with respect to broadband services, access for those service providers that
2 use or make use of the publicly switched network.

3 (3) The commission may assist in the resolution of~~[shall have jurisdiction to~~
4 ~~investigate and resolve]~~ consumer service complaints.

5 (4) No telephone utility shall refuse to provide wholesale digital subscriber line service
6 to competing local exchange carriers on the same terms and conditions, filed in
7 tariff with the Federal Communications Commission, that it provides to Internet
8 service providers.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 3/12/2015